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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

HENRY DUFFY,

Defendant and Appellant.

B187485

(Los Angeles County
Super. Ct. No. NA065413)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gary J. Ferrari, Judge. Affirmed as modified.

The Bucklin Law Firm, Stephen L. Bucklin, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Mary Sanchez and Steven D. Matthews, Deputy Attorneys General, for Plaintiff and Respondent.

The sole issue on appeal is whether the abstract of judgment fails to conform to the judgment as orally pronounced. The People concede, and we agree, that it does not.

Because the issue on appeal is limited, we briefly state the relevant facts. On October 4, 2005, a jury convicted defendant and appellant Henry Duffy of one count of second degree burglary. (Pen. Code,¹ § 459.) Thereafter, on October 18, 2005, the trial court found true prior strike and prison term allegations. The court sentenced Duffy to the midterm of two years doubled under the Three Strikes law plus an additional two years for two prior prison terms (§ 667.5, subd. (b)). The court ordered, among other things, Duffy to pay a \$200 restitution fine (§ 1202.4, subd. (b)(1)), a \$20 court security assessment fee (§ 1465.8, subd. (a)(1)), and a \$510 victim restitution fee (§ 1202.4, subd. (f)).²

The abstract of judgment, however, does not accurately reflect the judgment imposed. The abstract incorrectly states that Duffy was ordered to pay a \$1,200 restitution fine under section 1202.4, subdivision (b), and a \$1,200 parole revocation fine under section 1202.45. The abstract must be modified to reflect the judgment orally imposed. (*People v. Mitchell* (2001) 26 Cal.4th 181, 185 [“Courts may correct clerical errors at any time, and appellate courts . . . that have properly assumed jurisdiction of cases have ordered correction of abstracts of judgment that did not accurately reflect the oral judgments of sentencing courts”].)

The abstract of judgment must be modified to reflect that the trial court imposed a \$200 fine under section 1202.4, subdivision (b), and a \$200 fine under section 1202.45.³

¹ All further statutory references are to the Penal Code.

² The reporter’s transcript is somewhat ambiguous as to whether the trial court imposed a \$10 or a \$510 victim restitution fine. Duffy does not, however, contend that the victim restitution fine should have been only \$10, and our review of the transcript shows that the trial court did impose a \$510 fine.

³ The trial court did not expressly impose a parole revocation fine under section 1202.45, but, under that section, the trial court “shall at the time of imposing the restitution fine pursuant to subdivision (b) of Section 1202.4, assess an additional parole

The clerk of the superior court is directed to correct the abstract of judgment and to forward a corrected abstract of judgment to the Department of Corrections. The judgment is otherwise affirmed as modified.

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ALDRICH, J.

We concur:

CROSKEY, ACTING P. J.

KITCHING, J.

revocation restitution fine in the same amount as that imposed pursuant to subdivision (b) of Section 1202.4. This additional parole revocation restitution fine shall be suspended unless the person's parole is revoked."